UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 09/690,159
Filing Date: October 17, 2000
Appellant(s): RASHKOVSKIY, OLEG B.

Timothy N. Trop
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 9/20/2007 appealing from the Office action mailed

5/1/2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

(8) Evidence Relied Upon

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 44-51, 54-56, and 58-74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Armstrong et al. (US 7,017,173 B1) in view of Zigmond et al. (US 6,698,020 B1).

Regarding claim 44, Armstrong teaches a method comprising receiving content and at least two advertisements on a content receiver (e.g., set top box) (col. 3, lines 4-18; col. 3-4, lines 65-2; col. 4, lines 40-47; figures 1-3); storing advertisements in a cache (storage) coupled to said content receiver (col. 13, lines 24-34), in response to detecting a change from the one mode of display to another mode of display (e.g., pausing or stopping the presentation of the program), displaying one or more selected advertisements for as long as the other mode of display continues, said change from said one mode of display to said other mode of display in response to an action taken by a user of said content receiver (upon receiving stop or pause command from a user, the set top box displays advertisement information – see col. 4, lines 47-51; col. 5-6, lines 66-7; col. 6, lines 57-60; col. 11, lines 29-49; col. 13, lines 28-34). Armstrong does not explicitly disclose storing the content, selecting a stored advertisement based on a content characteristic that is specified by an advertisement provider, and displaying the retrieved content in one mode of display. However, Zigmond discloses storing video programming and advertisements in a storage 86 of viewer's device and later making the video programming available for display to a viewer (col. 15, lines 26-34). Zigmond further discloses selecting a stored advertisement based on advertisement parameter that is specified by an advertiser/provider (see col. 11, lines 31-42; col. 12, lines 15-18 and 33-38). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to

modify the system of the system of Armstrong by storing the content and displaying the

retrieved content, and selecting a stored advertisement based on advertisement parameter that

is specified by an advertiser/provider as disclosed by Zigmond in order to locally playback the

video programming and effectively tailor advertisements to the interests and needs of the

viewers.

Regarding claim 54, Armstrong teaches a medium for storing instruction that, if

executed, enable a processor-based system (within set top box – figures 1-3) to receive content

and at least two advertisements on a content receiver (e.g., set top box) (col. 3, lines 4-18; col.

3-4, lines 65-2; col. 4, lines 40-47; figures 1-3); store advertisements in a cache (storage)

coupled to said content receiver (col. 13, lines 24-34), in response to detecting a switch from the

one mode of display to another mode of display (e.g., pausing or stopping the presentation of

the program), display one or more selected advertisements for as long as the other mode of

display continues, said switch from said one mode of display to said other mode of display

initiated by a user's use of the content receiver (upon receiving stop or pause command from a

user, the set top box displays advertisement information – see col. 4, lines 47-51; col. 5-6, lines

66-7; col. 6, lines 57-60; col. 11, lines 29-49; col. 13, lines 28-34). Armstrong does not explicitly

disclose storing the content, selecting a stored advertisement based on a content characteristic

that is specified by an advertisement provider, and displaying the retrieved content in one mode

of display. However, Zigmond discloses storing video programming and advertisements in a

storage 86 of viewer's device and later making the video programming available for display to a

viewer (col. 15, lines 26-34). Zigmond further discloses selecting a stored advertisement based

on advertisement parameter that is specified by an advertiser/provider (see col. 11, lines 31-42;

col. 12, lines 15-18 and 33-38). Therefore, it would have been obvious to one of ordinary skill in

the art at the time the invention was made to modify the system of the system of Armstrong by

storing the content and displaying the retrieved content, and selecting a stored advertisement

based on advertisement parameter that is specified by an advertiser/provider as disclosed by

Zigmond in order to locally playback the video programming and effectively tailor

advertisements to the interests and needs of the viewers.

Regarding claims 45 and 55, Armstrong as modified by Zigmond further discloses that

the advertiser may specify a particular advertisement to be shown during a particular program is

broadcast. The particular advertisement is selected according to a particular program being

viewed based on content rating (see Zigmond: col. 12, lines 15-18 and 47-51; col. 13, lines 48-

51).

Regarding claims 46 and 56, Armstrong as modified by Zigmond further discloses

comparing the content ratings of the advertisement specified by the advertiser to content rating

of video programming being viewed (see Zigmond: col. 12, lines 15-18; col. 13, lines 48-57).

Regarding claim 47, Armstrong as modified by Zigmond further discloses selecting an

advertising based on subject matter specified by the advertisement provider (see Zigmond: col.

12, lines 15-18 and 60-62).

Regarding claims 48-49 and 58-59, Armstrong as modified by Zigmond further discloses

the subject matter of the television program may be identified using the descriptions in the

electronic program database 81, by monitoring the contents of the closed captioning information

that is broadcast with the video and audio portions of the television program (see Zigmond: col.

13, lines 1-6).

Regarding claims 50 and 60, Armstrong as modified by Zigmond further discloses

storing a variety of content types (digital encoded video programming and/or analog version of

the video programming feed) and allowing any one of the content type to be selected for play at

any time (see Zigmond: col. 15, lines 28-34).

Regarding claims 61 and 62, Armstrong as modified by Zigmond further teaches

receiving interruption instructions (i.e., triggering) over a channel that if executed enable the

system to monitor for criteria that determines when content is able to be interrupted (see

Zigmond: col. 15, lines 37-39).

Regarding claim 64, Armstrong discloses a system (figures 1-3) comprising:

a receiver (142) receive content and at least two advertisements (col. 3, lines 4-18; col. 3-

4, lines 65-2; col. 4, lines 40-47; figures 1-3); a cache (storage within set top box 142) coupled

to the receiver, to store advertisements (col. 13, lines 24-34); an interface, in the receiver (142),

in response to detecting user-initiated stop of the one mode of display of content (e.g., pausing

or stopping the presentation of the program), display one or more selected advertisements for

as long as the one mode of display is stopped, displaying one or more selected advertisements .

for as long as the other mode of display continues, said change from said one mode of display

to said other mode of display in response to an action taken by a user of said content receiver

(upon receiving stop or pause command from a user, the set top box displays advertisement

information – see col. 4, lines 47-51; col. 5-6, lines 66-7; col. 6, lines 57-60; col. 11, lines 29-49;

col. 13, lines 28-34). Armstrong does not explicitly disclose storing the content, selecting a

stored advertisement based on a content characteristic that is specified by an advertisement

provider, and displaying the retrieved content in one mode of display. However, Zigmond

discloses storing video programming and advertisements in a storage 86 of viewer's device and

later making the video programming available for display to a viewer (col. 15, lines 26-34).

Zigmond further discloses selecting a stored advertisement based on advertisement parameter

that is specified by an advertiser/provider (see col. 11, lines 31-42; col. 12, lines 15-18 and 33-

38). Therefore, it would have been obvious to one of ordinary skill in the art at the time the

invention was made to modify the system of the system of Armstrong by storing the content and

displaying the retrieved content, and selecting a stored advertisement based on advertisement

parameter that is specified by an advertiser/provider as disclosed by Zigmond in order to locally

playback the video programming and effectively tailor advertisements to the interests and needs

of the viewers.

Regarding claim 65, Armstrong discloses the system is a television receiver (see figures

1-3).

Regarding claim 66-68, Armstrong as modified by Zigmond teaches receiving

interruption instructions (i.e., triggering) over a channel that if executed enable the system to

monitor for criteria that determines when content is able to be interrupted. The system further

comprises a device (83) that parses content from instructions for inserting a selected

advertisement and parses instructions for how to store the content and advertisements (see

Zigmond: col. 15, lines 37-39; col. 11, lines 31-49).

Regarding claim 70, Armstrong as modified by Zigmond further discloses that the

advertiser may specify a particular advertisement to be shown during a particular program is

broadcast. The particular advertisement is selected according to a particular program being

viewed based on content rating (see Zigmond: col. 12, lines 15-18 and 47-51; col. 13, lines 48-

51).

Regarding claim 71, Armstrong as modified by Zigmond further discloses selecting an

advertising based on subject matter specified by the advertisement provider (see col. 12, lines

15-18 and 60-62).

Regarding claims 72-73, Armstrong teaches detecting a pause in the user of the content

and resuming the user of the content (see col. 4, lines 47-51; col. 5-6, lines 66-7; col. 6, lines

57-60; col. 11, lines 29-49; col. 13, lines 28-34).

Regarding claim 74, Armstrong teaches detecting a change from one mode to another

mode of display such as changing from playing the video program to pause/stop presentation of

the video program (see col. 4, lines 47-51; col. 5-6, lines 66-7; col. 6, lines 57-60; col. 11, lines

29-49; col. 13, lines 28-34). Armstrong does not explicitly teach the content or video

programming is game. Official Notice is taken that video programming including game in

distributing system is well known in the art. Therefore, it would have been obvious to one of

ordinary skill in the art at the time the invention was made to modify the system of Armstrong by

providing game as video programming in order to effectively enhance television interactive

service.

(10) Response to Argument

The main issue appellant argues is that the Zigmond reference does not teach storing

the programming feed or content in advertisement repository. This argument is not persuasive

based on the following reasons.

Firstly, the advertisement repository in ad insertion device contains a cache of delivered

advertisements. Alternatively, the advertisement repository comprises storage for storing

digitally encoded video programming or an analog version of the video programming feed. See

col. 15, lines 24-34. In this view, the advertisement repository may store the video programming

as well as the advertisements.

Secondly, Zigmond also discloses storing the transmitted advertisement stream from the

ad source in the advertisement repository for later selection and display. Furthermore, Zigmond

discloses that the provider may choose to multiplex advertisement stream into video

programming feed to provide them to ad insertion device (see col. 18, lines 7-12 and 17-21).

Accordingly, the ad insertion device of Zigmond receives the combined stream comprising

advertisement and video programming feed, and stores at least a portion of the received stream in the advertisement repository.

Thirdly, it is noted that the system of Zigmond is not limited to inserting advertisements, but instead extends to inserting any desired type of video programming or other video objects into a video programming stream. For instance, ad source 62 of figure 4 may be a source of video programming. See col. 18, lines 29-37 and figure 4. This indicates that the ad insertion device can receive the video programming from source 62 and the video programming feed from programming source 66.

Finally, the claimed "content" and advertisement are merely video data. That is, the content is not distinct from the advertisement in term of providing them to viewers for displaying. Thus, there is no technical difference between "content" and advertisement.

Therefore, the advertisement repository in the Zigmond's ad insertion device stores the "content".

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.
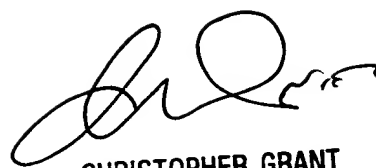
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